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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,442	08/31/2004	Naoki Mitsuta	101175-00054	6695
4372	7590	01/14/2009		
AREN'T FOX LLP 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036				EXAMINER
				ECHELMEYER, ALIX ELIZABETH
			ART UNIT	PAPER NUMBER
			1795	
NOTIFICATION DATE		DELIVERY MODE		
01/14/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com  
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Patent\_Mail@arentfox.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/505,442	<b>Applicant(s)</b> MITSUTA ET AL.
	<b>Examiner</b> Alix Elizabeth Echelmeyer	<b>Art Unit</b> 1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 November 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.  
 4a) Of the above claim(s) 12 and 13 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-11 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 06 November 2008 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response***

1. This Office Action is in response to the arguments filed November 6, 2008. No claims are amended. Claims 12 and 13 were previously withdrawn. Claims 1-11 are rejected for the reasons given below.

***Drawings***

2. The objection to the drawings is withdrawn in light of the replacement drawings filed November 6, 2008.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wald et al. (US 7,217,471) in view of Mowrer et al. (US 5,942,073).

Wald et al. teach a membrane electrode assembly (MEA for use in a polymer electrolyte fuel cell (abstract).

Regarding claims 1 and 9, Wald et al. teach that the membrane is sandwiched between two catalyst layers, wherein the catalyst layers are positioned in the inner circumference side of the membrane (Figure 2; column 5 lines 53-67). An adhesive, or

gasket, is formed on the outer circumference of the catalyst layers and adheres to the membrane (Figure 2).

With regard to claims 4 and 5, the adhesive layers are integral to, or permeate, the diffusion layers (column 3 lines 27-31).

Wald et al. fail to teach that the adhesive contains fluorine, and is a polysiloxane having two or more alkenyl groups and a tensile elongation at break of 150% or more.

Mowrer et al. teach an adhesive/adherent system comprising a polysiloxane resin having alkenyl side groups (abstract, column 3 lines 51-64).

Mowrer et al. teach that the polysiloxane adhesive is desirable when the adherent also contains siloxane, as could the coating of Wald et al., because of the bonds that form between the Si and O atoms (abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the adhesive/adherent system of Mowrer et al. in the assembly of Wald et al. since the bonding between the siloxane units would be strong.

As for the tensile elongation (claim 2) and amount of filling (claim 6), if the polysiloxane of Mowrer et al. was used in the membrane electrode assembly of Wald et al., these properties would be inherent because the adhesive of Mowrer et al. is the same as the claimed adhesive.

5. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wald et al. in view of Mowrer et al. as applied to claim 1 above, and further in view of Matlock et al. (US 6,261,711).

The teachings of Wald et al. and Mowrer et al. as discussed above are incorporated herein.

Wald et al. in view of Mowrer et al. teach the MEA of claim 1, but fail to teach the relative sizes of the anode and cathode catalyst layers.

Matlock et al. teach a sealing system of a fuel cell. The system includes a cathode catalyst layer (308) ending closer to the edge of the membrane than the anode catalyst layer (308') (Figure 7; column 5 lines 33-47).

It would be desirable to use a cathode catalyst of larger surface area than the anode catalyst, such as taught by Matlock et al., in the fuel cell of Wald et al. in view of Mowrer et al. if it was determined that a larger reaction area was required on the cathode side of the membrane.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a cathode catalyst of larger surface area than the anode catalyst, such as taught by Matlock et al., in the fuel cell of Wald et al. in view of Mowrer et al. if it was determined that a larger reaction area was required on the cathode side of the membrane.

6. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wald et al. in view of Mowrer et al. and Ito et al. (US 2001/0055711).

The teachings of Wald et al. and Mowrer et al. as discussed above are incorporated herein.

Wald et al. in view of Mowrer et al. teach the fuel cell of claim 9 but fail to teach the use of the fuel cell in a transport apparatus.

Ito et al. teach a solid polymer electrolyte fuel cells for use in automobiles because they provide high current density at low temperature ([0004]).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the fuel cell of Wald et al. in view of Mowrer et al. in an automobile since it provides high current density at low temperature.

#### ***Response to Arguments***

7. Applicant's arguments, see Remarks, filed November 6, 2008, with respect to the rejection of claims 1-11 under Yandrasits et al. have been fully considered and are persuasive, since Applicant has perfected the priority claims by filing an English language translation of JP 2002-313740. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made, see above.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alix Elizabeth Echelmeyer whose telephone number is (571)272-1101. The examiner can normally be reached on Mon-Fri 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PATRICK RYAN/  
Supervisory Patent Examiner, Art Unit 1795

Alix Elizabeth Echelmeyer  
Examiner  
Art Unit 1795

aee